



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
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March 19, 2012

CERTIFIED MAIL--Return Receipt Requested

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in February 2012; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency ("EPA") entered into a Consent Decree (the "Decree") to further the objectives of the Resource Conservation and Recovery Act ("RCRA") and the Clean Water Act ("CWA"). On December 9, 2009, the Montana Environmental Trust Group, LLC, Trustee of the Montana Environmental Custodial Trust (the "Custodial Trust") was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust have finalized a First Modification to the Decree that conforms to the terms of the

Settlement Agreement. The First Modification to the Decree, as approved by the parties, was filed with the Court on January 17, 2012. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during February 2012. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

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SECTION 1. DESCRIPTION OF ACTIVITIES FOR FEBRUARY 2012

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
1. Draft Phase II RFI	Hydrometrics/ GSI	The Custodial Trust provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No Data Submittal	No problems encountered.	90%
2. 2012 Field Sampling and Analysis Plan (FSAP)	Hydrometrics	On February 13, the Custodial Trust and Hydrometrics met to kick-off plans for sampling and analysis of wells located at or near the leading edge of the Selenium plume and the next FSAP sampling event.	Continuous and ongoing updates to the Site Database.	No problems encountered.	0%
3. Groundwater and Surface Water Monitoring	Hydrometrics	No groundwater and surface water monitoring activities were performed in February 2012.	No Data Submittal	No problems encountered.	0%
4. Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested formal procedures be developed to review and verify all data entered into the database. On June 2 nd , Hydrometrics Contract Modification #3 was executed to revise and update the DMP and addend the QAPP.	Revised DMP and QAPP were completed by August 12 th	No problems encountered.	85%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
5. Corrective Measures Study (CMS)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ol style="list-style-type: none"> On February 1, EPA issued a written request to the Custodial Trust to prepare an Interim Measures (IM) Work Plan pursuant to ¶14 of the First Modification to the 1998 RCRA Consent Decree. On February 3, EPA and the Custodial Trust issued a PPC Fact Sheet describing the UL aquifer test, the results of the PPC stream assessment (performed by Applied Geomorphology) and the expected benefits, including flood mitigation, associated with implementation of the SPHC interim measures. EPA provided a copy of the final PPC Stream Assessment report to the County, which was prepared by Applied Geomorphology as part of the SPHC interim measures natural resource permitting activities. The Custodial Trust and its attorneys continued preparing a draft contract for CH2M Hill to perform general contracting services in connection with construction of interim measures scheduled for 2012 and 2013. EPA and the Custodial Trust were notified by representatives from the media of a significant accumulation of sand in PPC downstream of the Site in the City of East Helena (the City). Officials from the City, the County and a number of East Helena residents, concerned about increased flood risk, questioned whether the sand deposition had resulted from activities related to the ongoing UL aquifer test. 		In response to a complaint, the MDEQ Water Quality Enforcement Division opened an investigation on February 1 st , into whether activities at the Site had contributed to sand deposition in Prickly Pear Creek. (On February 13 th , the MDEQ Water Quality Enforcement Division notified the Custodial Trust that it had closed its investigation concluding that the sanding event was not caused by activities at the Site.)	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<p>6. In connection with further lowering of UL and PPC water levels for the UL Aquifer Test, the Custodial Trust continued daily: collection of water level data in UL, LL, and PPC (upstream and downstream of the dam) and turbidity monitoring (upstream and downstream of dam as well as in town of East Helena).</p> <p>7. CH2M Hill and the Custodial Trust continued work related to SPHC interim measures, including: analysis of hazardous waste removal actions; alternatives and construction requirements for third CAMU; PPC re-grading plans; and other design and technical analyses.</p> <p>8. The Custodial Trust worked with Applied Geomorphology on developing a scope and cost proposal to perform additional stream analyses required to support SPHC natural resource permitting activities and final alignment of PPC.</p> <p>9. The State provided written comments to EPA on the draft CMS work plan.</p> <p>10. The Custodial Trust and Karin Boyd, Fluvial Geomorphologist, made a presentation to the East Helena City Council on the Upper Lake (UL) aquifer test, South Plant Hydraulic Control (SPHC) interim measures, Applied Geomorphology's PPC stream assessment and issues related to PPC historic flooding and potential flood risk.</p>	<p>East Helena personnel distributed daily progress and data reports for the SPHC aquifer test to the beneficiaries.</p> <p>Hydrometrics submitted graphs of transducer data from the UL aquifer tests.</p>	No problems encountered.	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS) (cont.)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ol style="list-style-type: none"> 11. MDEQ and the Custodial Trust reviewed policy and program issues related to MDEQ hazardous waste disposal fees and their potential impact on RCRA corrective action at the Site. 12. The Custodial Trust requested that Hydrometrics' geotechnical expert perform an analysis of the integrity and risk of failure of the manmade structures on PPC (including smelter dam, the diversion structure and the berm) and provide recommendations for near-term measures that could be cost effectively implemented to mitigate a high flow event and potential additional damage to the structures. 13. The Custodial Trust, CH2MHill and their subcontractors met to review natural resource permitting activities required for the SPHC interim measures in anticipation of the pre-application meeting with all permitting agencies on February 21. 14. A County Commissioner notified the Custodial Trust of his concerns that a representative from the County Water Quality Protection District (WQPD) had been denied access to PPC and the Site. Following discussions with representatives from the WQPD and the County Health Department on February 10, the head of the WQPD confirmed that no one from the WQPD had requested or been denied access to the Site. The Custodial Trust recommended a meeting with the Board of County Commissioners (BOCC) to discuss SPHC interim measures, PPC sand deposition and other Site issues and activities. 		No problems encountered.	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Corrective Measures Study (CMS) (cont.)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<p>15. The Custodial Trust notified all contractors and subcontractors of the requirements for compliance with the terms and conditions of the First Modification to the 1998 RCRA Consent Decree.</p> <p>16. The Custodial Trust authorized Hydrometrics' to perform an analysis of the integrity and risk of failure of the manmade structures on PPC (including smelter dam, the diversion structure and the berm) and provide recommendations for potential actions to cost effectively mitigate flood risk.</p> <p>17. The Custodial Trust and Hydrometrics met to discuss pumping to further drawdown of UL water levels and performing a bottom elevation survey of UL and Lower Lake (LL) as part of the next phase of the UL aquifer test.</p> <p>18. The Custodial Trust distributed to the beneficiaries a technical memorandum and cost analysis prepared by CH2M Hill related to remediation wastes and RCRA corrective action compliance.</p> <p>19. CH2M Hill and the Custodial Trust continued work on SPHC interim measures, including: follow-up with Confluence, Inc. on stream design for realignment of PPC; plans for meeting with regulators on natural resource permitting requirements; sequencing plans for 2012 and 2013 construction activities; follow-up with Montana Fish Wildlife & Parks (MFWP) on various issues related to PPC; and revisions and updates to interim measure tasks and schedule.</p>			

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
6. Baseline Ecological Risk Assessment (BERA)	Gradient	<ol style="list-style-type: none"> 1. On February 3, EPA provided a hard copy of the Baseline Ecological Risk Assessment (BERA) to representatives from the Health Department for Lewis & Clark County 2. On February 17, EPA provided analytical results of the soil samples collected by the US Department of Agriculture (USDA) in connection with their study of metals bioavailability in surface soils to livestock, wild life and crops. 	No Data Submittal	No problems encountered.	100%
7. Human Health Risk Assessment (HHRA)	Exponent/CH2M-Hill	On February 3, EPA provided comments on the Screening Level Human Health Risk Assessment (SLHHRA) to CH2M Hill.	No Data Submittal	No problems encountered.	85%
8. Consent Decree Modification	Custodial Trust/DOJ	No Consent Decree modifications occurred during the month of February.	No Data Submittal	No problems encountered.	100%
9. Groundwater Technical Working Group (TWG)-Groundwater Model Work Plan	Custodial Trust/EPA/MDEQ/MDOJ	The Custodial Trust continued negotiations related to contract terms, rates and scope for AMEC's development of a numeric groundwater flow model and performance of other hydrogeologic activities.	No Data Submittal	No problems encountered.	- %

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
10. Regulatory Compliance	Custodial Trust	<ol style="list-style-type: none"> 1. Routine inspections of health and safety systems, CAMU's, temporary liners and hazardous waste roll-offs were completed. 2. In response to a request from EPA, Hydrometrics and the Custodial Trust made plans to follow-up on health & safety training for personnel from the East Valley Fire Department to allow them to enter the Site (with a security gate key card) in response to a potential emergency. 3. 2011 Biennial Hazardous Waste report submitted to MDEQ on February 28th. 4. 2011 Tier II submitted on February 28th. 	<p>2011 Biennial Hazardous Waste report submitted on February 28th.</p> <p>2011 Tier II Inventory report submitted on February 28th.</p>	No problems encountered.	On Going
11. Health and Safety	Custodial Trust	<ol style="list-style-type: none"> 1. East Helena Personnel completed OSHA Hazwoper 8-hour refresher training. 2. The Custodial Trust initiated evaluation of existing emergency response plans and related health & safety requirements for the Site. 	No Data Submittal	No problems encountered.	On Going
12. Documents and Records	Custodial Trust	<ol style="list-style-type: none"> 1. EH personnel began categorizing, inventorying, and storing file boxes on pallets in one of the Conex shipping containers. 2. On February 15, the Custodial Trust met with Hydrometrics to review plans for Hydrometrics' removal of their documents and records from the Site. Hydrometrics advised the Custodial Trust that all such files were the property of Asarco 	No Data Submittal	No problems encountered.	On Going
13. Site Security	Custodial Trust	No site security issues were identified during February.	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
14. Water Treatment Plant	Custodial Trust	<ol style="list-style-type: none"> EH personnel operated HDS water treatment plant to treat stored water on Site on February 1st, 2nd, and 7th. EH personnel completed maintenance activities on the HDS water treatment plant infrastructure including: repairs to the effluent air bleeder to LL; repair of air leaks and desiccant filters; and installation of an air filter on the purge for the effluent line to LL. 	No Data Submittal	No problems encountered.	Ongoing
15. Plant Operations	Custodial Trust	<ol style="list-style-type: none"> EH personnel removed ice build-up that had accumulated on the smelter dam and UL diversion structure. On February 7, American Chemet purchased and removed the rotary melter from the Site pursuant to a bill of sale with the Custodial Trust. EH personnel unplugged the sewer pump for the Custodial Trust Administrative office building holding tank and transferred the tank farm water to the HERO feed tank. EH personnel completed the Mondi piping inventory for salvage and sale of scrap material. 	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
16. Personnel and Office Operations	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust reviewed logistics and plans required to site the modular offices near the rodeo grounds, including evaluation of building layout and coordination of utilities connections. 2. The Custodial Trust continued activities related to identifying and recruiting a project controls coordinator for the EH team. 	No Data Submittal	No problems encountered.	Ongoing
17. Financial Affairs	Custodial Trust	<ol style="list-style-type: none"> 1. On February 9, the Custodial Trust submitted the 2012 Personal Property Tax Report to the City of East Helena, which showed no changes in personal property from 2011. 2. The Custodial Trust and CH2M Hill on the closed out of all 2011 purchase orders and established new scopes/cost proposals aligned with the approved 2012 East Helena Cleanup Budget. 3. The Custodial Trust responded to numerous requests from Galusha Higgins and Galusha to support their completion of the year-end 2011 financial statement for the East Helena Cleanup Account. 	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
18. Property Use/Development	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust provided additional information to the beneficiaries regarding issues related to conveyance of the SAR Parcel in response to feedback from MDOJ. 2. Montana Rail Link distributed a revised plan for potential rail access required to support a long-term sale of re-processed slag. 3. H&H Metals weighed and loaded approximately 1.5k tons of crushed, unfumed slag on 15 railroad cars for transport to Trail, BC. 4. The Custodial Trust provided additional information to the beneficiaries regarding issues related to conveyance of the SAR Parcel in response to feedback from MDOJ. 5. The Custodial Trust distributed the final, updated draft Opportunities and Constraints Plans and the Preliminary Market Study to the beneficiaries for review and comment. 	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
Property Use/ Development (cont.)	Custodial Trust	<ol style="list-style-type: none"> 6. EPA and the Custodial Trust participated in a conference call with representatives from the City, the County, MDEQ, the Montana Business Assistance Connection (MBAC) and the Department of Energy Renewable Energy Laboratory (NREL) to kick-off activities under the EH Re-Powering America grant to assess the feasibility of siting renewable energy facilities at the Site. 7. The Superintendent of the East Helena Public School District advised the Custodial Trust of the District's interest in purchasing some or all of the Dartman Farm property. 8. The Custodial Trust and the East Helena Rodeo Association reviewed requirements for renewing and revising their land use agreement for the 2012 rodeo. 9. The Custodial Trust and American Chemet continued discussions and negotiations related to a potential sale of Custodial Trust property and issues related to Air Liquide. 10. The Custodial Trust provided MBAC with recommendations for topics to cover at their annual investors review meeting. 11. Custodial Trust re-stated its request for beneficiary feedback on the preferred conveyancing strategy for the Search & Rescue (SAR) Parcel slated for transfer to the County. Preliminarily, USDOJ and EPA indicated their preference for conveyance by subdivision approval. The State maintained their continued preference for conveyance by eminent domain utilizing the 76-3-201 MCA exemption, and, failing that, by adjoining boundary relocation. 	Updated draft Opportunities and Constraints Plans and the Preliminary Market Study submitted on February 1 st .	No Problems Encountered	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
19. Community and Local Meetings	Custodial Trust	<ol style="list-style-type: none"> 1. Presentation to the East Helena City Council on PPC sand deposition by the Custodial Trust and Geomorphologist, Karin Boyd on February 7th. 2. Presentation by the Custodial Trust on SPHC interim measures at the Prickly Pear Land Trust (PPLT) annual meeting on February 16th. 3. Meeting with the EPA, County Health Department, the Water Quality District and the Custodial Trust to discuss communication protocols and public involvement on February 21st. 4. Progress report by EPA and the Custodial Trust to the East Helena City Council on February 21st 	No Data Submittal	No Problems Encountered	Ongoing

SECTION 2. ACTIVITIES SCHEDULED FOR MARCH 2012

Task	Performing Entity	Description
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	No activities planned for March 2012
Baseline Ecological Risk Assessment (BERA) and Human Health Risk Assessment (HHRA)	CH2M Hill, Exponent, Gradient	No activities planned for March 2012
Corrective Measures Study	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ul style="list-style-type: none"> Continuation of Upper Lake Drawdown test. Prickly Pear Creek diversion permitting requirements.
Property Use/Development	East Helena	<ul style="list-style-type: none"> H&H Metals to continue slag crushing. Meeting with Chemet, EPA, MDEQ, MDOJ, USDOJ, CTA, and MRL to discuss Chemet's expansion needs.
Monthly inspection of six temporary cap areas.	TS Consulting	Monthly inspections of the temporary cap areas will continue in March 2012.
CAMU Inspections	TS Consulting/Custodial Trust	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in March 2012.
Water Treatment Plant	Custodial Trust	No plans to operate water treatment plant in March 2012.
Financial Affairs	Custodial Trust	Submit the 2012 East Helena Cleanup Account budget to EPA.
Beneficiaries Meeting	EPA/MDEQ/MDOJ/Custodial Trust	Monthly beneficiaries meeting.
EHECTIC Meeting	Custodial Trust/EPA	Meeting scheduled on April 4 th .

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in February 2012. A complete listing of projects completed in 2012 will be reported in the January 2013 Progress Report.

Section 4. Describe Actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

Section 5. Identify changes in key personnel during the period.

There were no changes in personnel in February 2012.

Section 6. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President

cc: Denise Kirkpatrick - MDEQ
Randy Breeden - EPA 8
Chuck Figur - EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President